

REQUEST FOR PROPOSALS

MUNICIPAL AND COMMERCIAL BUILDING

TARGETED MEASURE RETROFIT

PROGRAM



RFP #400-09-402
www.energy.state.ca.gov/contracts
State of California
California Energy Commission
October 2009

Table of Contents

I. INTRODUCTION	1
BACKGROUND	1
PURPOSE OF RFP	2
KEY ACTIVITIES AND DATES.....	2
AVAILABLE FUNDING	2
ELIGIBLE BIDDERS	3
PRE-BID CONFERENCE	3
PARTICIPATION THROUGH WEBEX	3
QUESTIONS	4
CONTACT INFORMATION	4
FEDERAL AND STATE LAWS, REGULATIONS, AND GUIDELINES	5
KEY WORDS AND DEFINITIONS	6
II. GOALS AND OBJECTIVES	9
ABOUT THIS SECTION.....	9
BACKGROUND	9
MUNICIPAL AND COMMERCIAL BUILDING TARGETED MEASURE RETROFIT PROGRAM	
CONCEPT	9
TARGETED RETROFIT MEASURES	10
WORKFORCE DEVELOPMENT AND JOB CREATION	11
COLLABORATION WITH EXISTING EFFICIENCY PROGRAMS.....	12
SUSTAINABILITY/ LASTING CHANGES IN THE MARKET.....	12
III. PROGRAM PROPOSAL REQUIREMENTS.....	14
PROGRAM TITLE	14
PROGRAM EXECUTIVE SUMMARY.....	14
PROGRAM DESIGN.....	14
TARGETED RETROFIT MEASURES	14
FUND LEVERAGE	14
PUBLIC AND PRIVATE PARTNERSHIPS.....	15
COLLABORATION WITH EXISTING EFFICIENCY PROGRAMS.....	15
PARTICIPANT RECRUITMENT AND PROGRAM COMMUNICATIONS	15
ECONOMICALLY DISADVANTAGED AREAS	15
QUALITY ASSURANCE.....	16
VERIFICATION OF ENERGY SAVINGS.....	16
SUSTAINABILITY/ LASTING CHANGES IN THE MARKET.....	16
PROGRAM COST EFFECTIVENESS	17
TEAM ORGANIZATIONAL STRUCTURE.....	17
ENERGY, PEAK DEMAND, AND GHG EMISSIONS REDUCTIONS	18
TIME CRITICALITY	18
PROGRAM TRANSPARENCY AND REPORTING	18
PROGRAM TEAM QUALIFICATIONS AND EXPERIENCE	19
SCOPE OF WORK AND DELIVERABLES	19
<i>Program Goal</i>	19

<i>Task 1: Contract Management</i>	20
<i>Task 2: Program Delivery</i>	23
<i>Deliverables and Due Dates</i>	24
BUDGET AND SCHEDULE	24
CLIENT REFERENCES	25
IV. PROPOSAL FORMAT AND REQUIRED DOCUMENTS	26
ABOUT THIS SECTION	26
LIMITATION IN THE PROPOSAL FORMAT AND LENGTH	26
NOTICE OF INTENT TO BID REQUIREMENT	26
REQUIRED FORMAT FOR A PROPOSAL	26
NUMBER OF COPIES.....	26
PACKAGING AND LABELING	27
PREFERRED METHOD FOR DELIVERY	27
<i>VOLUME 1, Administrative Response</i>	28
<i>VOLUME 2, Program Proposal</i>	28
V. ADMINISTRATION INFORMATION	30
RFP DEFINED	30
EQUIPMENT PURCHASES.....	30
<i>Information Considered Confidential</i>	30
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)	31
COST OF DEVELOPING PROPOSAL	31
DARFUR CONTRACTING ACT OF 2008	31
DISABLED VETERAN BUSINESS ENTERPRISES (DVBE) COMPLIANCE REQUIREMENTS	32
RFP CANCELLATION AND AMENDMENTS.....	33
ERRORS.....	33
MODIFYING OR WITHDRAWAL OF PROPOSAL.....	33
IMMATERIAL DEFECT	33
BIDDERS' ADMONISHMENT.....	33
GOVERNING BOARD DOCUMENTATION	34
AGREEMENT REQUIREMENTS	34
INTERPRETATION	35
AGREEMENT AWARD.....	35
UNSUCCESSFUL PROPOSALS.....	36
APPROVAL OF AWARDS	36
AWARD PAYMENTS AND INVOICING.....	36
GROUNDS TO REJECT A PROPOSAL	37
PROTEST PROCEDURES	38
VI. ARRA SPECIFIC IMPORTANT INFORMATION.....	39
INFORMATION ON COMPLYING WITH SINGLE AUDIT ACT	39
LEVERAGE FUNDING	39
PERIOD OF PERFORMANCE.....	40
TRANSPARENCY AND REPORTING	40
TRACKING AND REPORTING	41
PROJECT EXTENSIONS	41

PROJECT CHANGES	41
REALLOCATION OF FUNDS	42
PROGRAM EVALUATION, PROJECT MONITORING, AND VERIFICATION	42
ENFORCEMENT ACTION	42
1. <i>Recovery of Overpayment</i>	42
2. <i>Fraud and Misrepresentation</i>	42
3. <i>Federal Action</i>	43
USE AND DISCLOSURE OF INFORMATION AND REPORTS	43
CRITICAL PROGRAM REVIEWS	44
PAYMENT OF PREVAILING WAGES	44
VII. EVALUATION PROCESS AND CRITERIA	46
ABOUT THIS SECTION	46
PROPOSAL EVALUATION	46
<i>Stage One: Fulfillment of RFP Mandatory Format</i>	46
<i>Stage Two: Evaluation of Proposals</i>	46
<i>Ranking and Awards</i>	47
<i>Notice of Proposed Award</i>	47
<i>Scoring Scale</i>	47
<i>Preference Points</i>	48
<i>Small / Microbusiness</i>	48
<i>Non-Small Business</i>	49
<i>Target Area Contract Preference Request</i>	49
<i>Enterprise Zone Request</i>	49
<i>Local Agency Military Base Recovery Act</i>	49
<i>Disabled Veteran Business Enterprise</i>	49
<i>Incentive Application:</i>	49
<i>Incentive Amount:</i>	50
<i>Evaluation Criteria</i>	50

Attachments

- 1 Contractor Status Form
- 2 Darfur Contracting Act
- 3.1 Certified Small/micro Business, Non-small Business and DVBE Certification Instructions
- 3.2 [Disabled Veteran Business Enterprise Program Requirements](#)
- 3.3 Disabled Veteran Enterprise Declarations; Std. 843
- 3.4 Bidder Declaration form GSPD-05-105
- 4 Contractor Certification Clauses
- 5 Client References
- 6 Sample Standard Agreement, (To be provided by an addendum)
- 7 Target Area Contract Preference Act (TACPA) Request
- 8 Enterprise Zone Act (EZA) Preference Request
- 9 Local Agency Military Base Recovery Area (LAMBRA) Preference Request
- 10 Mandatory Notice of Intent to Bid
- 11 Executive Summary
- 12 National Environmental Protection Act(NEPA) Compliance Form
- 13 Davis Bacon Act Prevailing Wage Q&A
- 14 California Law Prevailing Wage Requirements
- 15 Bidders Authorizing Resolution (Sample)
- 16 Auditing Consideration
- 17 Financial Management Information
- 18 California Environmental Quality Act(CEQA) Compliance Form
- 19 Reporting and Tracking Spreadsheets
- 20 National Historic Preservation Act (NHPA)
- 21 Budget Workbook
 - Exhibit A, Schedule of Deliverables and Due Dates
 - Exhibit B, Budget Forms
 - Exhibit F, List of Contacts

I. Introduction

BACKGROUND

The American Recovery and Reinvestment Act 2009 (ARRA) was enacted by Congress to preserve and create jobs and promote economic recovery, to assist those most impacted by the recession, to provide investments needed to increase economic efficiency by spurring technological advances, and to make investments that will have long term economic benefits. ARRA gives preference to projects that promote and enhance these objectives of the Act in an expeditious manner.

The U.S. Department of Energy (DOE) encourages states to develop State Energy Program (SEP) strategies that align with the following national goals: increasing jobs, reducing US oil dependency through increases in energy efficiency and deployment of renewable energy technologies, promoting economic vitality through an increase in “green jobs,” and reducing green house gas emissions. The DOE encourages states to focus their program efforts on market transformation initiatives and actions that align with these national goals. Market transformation is defined as: “Strategic interventions that cause lasting changes in the structure or function of a market or the behavior of market participants, resulting in an increase in adoption of energy efficiency and renewable energy products, services, and practices.”¹

The DOE has allocated the Energy Commission \$226 million in ARRA funding for the SEP. State law authorizes the Energy Commission to use these SEP funds for energy efficiency, energy conservation, renewable energy, and other energy related projects and activities authorized by ARRA. Because ARRA has a set of wide-ranging policy goals as well as limitations regarding the life of the funds, the Energy Commission is seeking projects through a number of approaches and a number of different programs. The Energy Commission reserves the unfettered right to decide which of all of the possible bidders and projects solicited will tend to maximize the beneficial use of the ARRA funds. Therefore bidders are admonished that there is no guarantee that their project will be funded even if their proposal is the highest ranked proposal under this RFP.

Among other SEP funding opportunities, the Energy Commission has decided to seek projects in the following program areas under three concurrent solicitations:

1. Municipal Financing Program (“AB 811 type programs”) RFP No. 400-09-401
2. California Comprehensive Residential Building Retrofit Program RFP No. 400-09-403
3. Municipal and Commercial Building Targeted Measure Retrofit Program RFP No. 400-09-402

¹ See http://www.energy.ca.gov/recovery/documents/SEP_Recovery_Act_Guidance_DE-FOA-00000521.pdf

I. INTRODUCTION, CONTINUED

Collectively, the three solicitations shall be referred to as the "Solicitations," individually they are referred to as "solicitation," "PON" or "RFP".

The Solicitations contain many new ARRA and SEP requirements. Bidders are advised to carefully read and review all sections of this RFP as the proposal and the contracting requirements are substantially different from past Energy Commission solicitations.

PURPOSE OF RFP

This RFP is solely for the *Municipal and Commercial Building Targeted Measure Retrofit Program*, one of the four program elements eligible for ARRA SEP funding under the Energy Commission's *State Energy Program Guidelines* adopted by the Energy Commission on September 30, 2009. SEP funds awarded through this RFP will be directed to energy efficiency retrofits of nonresidential buildings and the energy consuming processes within these buildings. The specific goals, objectives and program strategies for this RFP are described in Section II.

KEY ACTIVITIES AND DATES

Key activities and dates for this RFP are presented below. This is a tentative schedule; please call the Contracts Office to confirm dates.

ACTIVITY	DATE
RFP Release	October 8, 2009
Pre-Bid Conference	October 20, 2009
Deadline for Written Questions	October 22, 2009
Distribute Questions/Answers and Addenda (if any) to RFP	October 27, 2009
Deadline to Advertise for DVBE	November 16, 2009
Mandatory Notice of Intent to Bid due by 4:30 p.m.	October 30, 2009
Proposals due by 5:00 p.m.	November 30, 2009
Clarification Interviews (If Necessary)	TBD
Notices of Proposed Awards	December 22, 2009
Commission Business Meeting	January 27, 2010
Contract Start Date	February 1, 2009
Project Implementation Deadline	March 31, 2012
Contract End Date	March 31, 2012

AVAILABLE FUNDING

There is up to \$95 million of ARRA SEP funds available for the contracts resulting from the Solicitations. An organization may submit a separate proposal for funding under any of the Solicitations and may receive a separate award under more than one solicitation. To be considered for funding, each proposal shall request no more than \$20 million and no less than \$2 million from a solicitation. Requested funding must reflect

I. INTRODUCTION, CONTINUED

the level of effort proposed. The Energy Commission anticipates funding one or more separate agreements as a result of this RFP and the Solicitations. The Energy Commission also reserves the right to make no awards under any one or more solicitations; or to award all funds under one or more solicitations; or to award funds to only one bidder.

The Energy Commission reserves the right to reduce the amount of funds available under the Solicitations. In addition, ARRA funding may be reallocated as necessary to best achieve the overall goals of ARRA and state law and policy. Funds identified for the Solicitations may be reallocated and used for another purpose only after the Solicitations have closed and awards have been made or the Solicitations have been modified or cancelled.

ELIGIBLE BIDDERS

Public, nonprofit or private organizations are eligible to apply to the Municipal and Commercial Building Targeted Measure Retrofit Program. The Bidder is expected to partner with public and/or private entities to implement the Program.

PRE-BID CONFERENCE

There will be one Pre-Bid Conference; participation in this meeting is optional but encouraged. The Pre-Bid Conference will be held at the date, time and location listed below. Please call (916) 654-4392 or refer to the Energy Commission's website at www.energy.ca.gov to confirm the date and time.

October 20, 2009
9:00 am
California Energy Commission
Hearing Room A
1516 9th Street
Sacramento, CA 95814
Telephone: (916) 654-4392

PARTICIPATION THROUGH WEBEX

Please be aware that the meeting's WebEx audio and on-screen activity may be recorded.

REGISTRATION

- To register for this event, go to
 - <https://energy.webex.com/energy/onstage/g.php?d=920665554&t=a>
1. Click the "Register" button at the bottom of the page.
 2. Provide your information as requested.

I. INTRODUCTION, CONTINUED

3. You will receive a confirmation email message that contains the details to join the event.

COMPUTER LOG ON

Follow the instructions in your confirmation email to join the meeting a few minutes early.

TELEPHONE ONLY (No Computer Access)

If you cannot join the meeting via computer, you can listen to the audio via phone by calling toll free 1-866-469-3239 and entering the Meeting Number **920 665 554** followed by the # key. When asked for your Attendee ID number, please press the # key. You will then be entered into the call of the meeting on a muted line.

If you have difficulty joining the meeting, please call the WebEx Technical Support number at (866) 229-3239.

QUESTIONS

During the solicitation process, questions of clarification about this RFP must be directed to the Contracts Officer listed in the following section. You may ask questions at the Pre-Bid Conference, and you may submit questions via mail, electronic mail, FAX, and by phone. However, all questions must be received by 5:00 pm on Thursday, October 22, 2009. After this date, question and answer sets will be mailed to all parties who submitted questions (so long as they also provided their address), requested a copy of this PON from the Energy Commission Contracts Office and all parties that left their address with the Contracts Officer at the Pre-Bid conference. The questions and answers will also be posted on the Energy Commission's website at:
<http://www.energy.ca.gov/contracts/index.html>.

Any verbal communication with an Energy Commission employee concerning this RFP is not binding on the State and shall in no way alter a specification, term, or condition of the RFP.

CONTACT INFORMATION

Andrew Ferrin, Contracts Officer
California Energy Commission
1516 9th Street, MS-18
Sacramento, CA 95814
Telephone: (916) 654-4921
FAX: (916) 654-4423
aferrin@energy.state.ca.us

I. INTRODUCTION, CONTINUED

FEDERAL AND STATE LAWS, REGULATIONS, AND GUIDELINES

Bidders responding to this solicitation should be familiar with Federal and State laws, regulations, and guidelines that apply to the SEP, including but not limited to the following:

Federal

- The American Recovery and Reinvestment Act of 2009
<http://www.energy.ca.gov/recovery/documents/HR1.pdf>.
- Department of Energy State Energy Program Funding Opportunity Announcement DE-FOA-0000052
<https://www.fedconnect.net/FedConnect>.
- Title 10 Code of Federal Regulations (CFR) Part 420: State Energy Program
<http://www.gpoaccess.gov/cfr/index.html>
- Davis-Bacon Act (40 U.S.C. 3141, et. seq.)
- National Environmental Policy Act (42 U.S.C. 4321, et. seq.)
- National Historic Preservation Act of 1966 (16 U.S.C. 470f)
- Office of Management and Budget reporting requirements
http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf
http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21-suppl.pdf
http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21-suppl2.pdf
- Council of Economic Advisers' Estimates of Job Creation from the American Recovery and Reinvestment Act of 2009, May 2009
http://www.whitehouse.gov/assets/documents/Estimate_of_Job_Creation.pdf.

State

- Streets and Highways Code Sections 5898.20 - 5898.32 (California Assembly Bill 811)
http://www.energy.ca.gov/recovery/documents/ab_811_bill_20080721_chaptered.pdf.
- California Energy Commission State Energy Program Guidelines
<http://www.energy.ca.gov/2009publications/CEC-150-2009-004/CEC-150-2009-004-CTD.PDF>.
- California Home Energy Rating System Program regulations
<http://www.energy.ca.gov/2008publications/CEC-400-2008-011/CEC-400-2008-011-CMF.PDF>.

I. INTRODUCTION, CONTINUED

KEY WORDS AND DEFINITIONS

Important definitions for this RFP are presented below:

Word/Term	Definition
ARB	California Air Resources Board, which has responsibility for overseeing implementation of the Assembly Bill (AB) 32 Climate Change Scoping Plan
ARRA	American Reinvestment and Recovery Act
ARRA Accountability and Transparency Board	Established by ARRA to coordinate and conduct oversight of Federal spending to prevent waste, fraud and abuse by establishing accountability and insuring that the recipients and uses of all funds are transparent to the public.
ARRA Committee	Energy Commission's American Recovery and Reinvestment Act (ARRA) Ad Hoc Committee
Bidder	A respondent to this RFP (also referred to as "applicant" in the Energy Commission's State Energy Program Guidelines)
Bi-level lighting	Lighting fixtures or systems that can operate at two levels – a low level for unoccupied periods and a higher level for occupied periods.
CCM	Commission Contract Manager
CPUC	California Public Utilities Commission, which directs the administration of public goods charge energy efficiency programs by the investor owned utilities (IOUs), including a range of programs directed at existing municipal and commercial buildings.
DGS	California Department of General Services
DOE	U.S. Department of Energy, which has responsibility for overseeing ARRA funding (including SEP) aimed at creating jobs by improving energy efficiency
DVBE	Disabled Veteran Business Enterprise
Economically Disadvantaged Area	Area where the unemployment rate exceeds the California statewide average unemployment rate for June 2009. Other characteristics, such as higher than average foreclosure rate and lower than average income levels, may also be considered in identifying economically disadvantaged areas.

I. INTRODUCTION, CONTINUED

Energy Commission	California Energy Commission
Process systems	Energy consuming equipment and controls that are dedicated to performing a specific process within a building such as refrigeration, water treatment, or kitchen exhaust.
Equipment	Products, objects, machinery, apparatus, implements or tools that have a useful life of at least one year, have an acquisition unit cost of at least \$5,000, and are purchased with ARRA SEP funds.
Fund leverage	The amount, type, source and timing of funds included in the proposed program from sources other than those to be awarded from this ARRA SEP solicitation.
GHG emission reductions	Green House Gas emission reductions from energy saved by the MCR program. The Energy Commission will calculate GHG emission reductions based on the specific fuel(s) saved in the MCR program.
IOU	Investor owned utility, which includes Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company and San Diego Gas & Electric Company.
IOU Express Efficiency	Statewide IOU energy efficiency rebate program that incents specific efficiency measures that have been previously identified and have pre-determined estimates of energy savings.
Market transformation	A strategy that promotes the manufacture and purchase of energy-efficient products and services. The goal of this strategy is to induce lasting structural and behavioral changes in the marketplace, resulting in increased adoption of energy-efficient technologies.
MCR	Municipal and Commercial Building Targeted Measures Retrofit Program
POU	Publicly owned utility
Proposal	Formal written response to this RFP from Bidder
Retro-commissioning	Also known as existing building commissioning, it is a systematic process that focuses on the operation of mechanical equipment, lighting, and related controls and it is intended to optimize how equipment operates as an integrated system.
RFP	Request for Proposal, this entire document
SEP	State Energy Program

I. INTRODUCTION, CONTINUED

SMART Lighting Fixtures	Energy efficient lighting technologies developed by the California Lighting Technology Center and their manufacturer partners that switch between two light levels with occupancy-sensing controls.
Source Energy	Energy that is used at a building site and consumed in producing and in delivering energy to the site, including, but not limited to, power generation, transmission and distribution losses.
State	State of California

II. Goals and Objectives

ABOUT THIS SECTION

This section explains the goals and objectives of the Municipal and Commercial Building Targeted Measure Retrofit Program [MCR] that is the subject of this RFP. This section summarizes the key program design concepts that Bidders must respond to in their program proposals. More detailed explanations of the requirements for the Bidder's response to this RFP are included in Section III.

BACKGROUND

MUNICIPAL AND COMMERCIAL BUILDING TARGETED MEASURE RETROFIT PROGRAM CONCEPT

The MCR Program focuses on achieving significant energy savings from targeted retrofit measures where opportunities exist in large numbers across the state's municipal and commercial building sectors. The targeted measures to be employed in this program must have previously demonstrated substantial energy savings compared to the existing equipment that is replaced and have broad applicability within specific building markets. Some examples of these targeted measures are occupancy controlled bi-level lighting fixtures for parking lots, parking garages, and exterior walkways. Other examples of measures that are suitable for this program are best practice control technologies for commercial kitchen ventilation and HVAC systems. This is not a comprehensive retrofit program that considers all cost-effective retrofit measures for each specific building application. The focus of the Municipal and Commercial Building Targeted Measure Retrofit Program is to capitalize on low risk, high return efficiency opportunities that are readily available throughout the state.

The MCR is applicable to a wide range of nonresidential buildings and the energy consuming processes within those buildings. A principal criterion is that through deployment of the targeted measures, the market can be transformed by convincing participating building owners and operators, as well as their building occupants, that energy efficiency can provide not only cost savings but also other valuable non-energy benefits. By replicating targeted measure retrofits widely throughout regions of the state or within specific building segments, and communicating the results broadly through effective publicity, the Municipal and Commercial Building Targeted Measure Retrofit Program will raise consumer awareness and contribute to California's continued leadership in energy efficiency. Bidders are encouraged to focus on a specific market segment and a set of technologies. The Energy Commission will select the best program proposals that, when viewed as a portfolio, meet the goal of implementing targeted measures broadly across the state.

The targeted measures proposed for deployment in the MCR Program must be market transformative. The retrofit technologies must represent the best practice concepts for their specific applications, achieve substantial energy savings compared to the existing

II. GOALS AND OBJECTIVES, CONTINUED

technologies being replaced, and provide non-energy benefits such as higher quality building environments and reduced maintenance costs, which will increase customer acceptance and demand.

The MCR builds on the successful Public Interest Energy Research (PIER) Technology Demonstration program. PIER has demonstrated several lighting and heating ventilation and air conditioning (HVAC) measures that save 50-70% of the energy used by the existing technologies that they replaced. Because these measures have been successfully deployed in numerous applications, energy savings in municipal and commercial buildings can be achieved at very low risk. Bidders can also potentially benefit from volume purchasing agreements with technology manufacturers to minimize payback periods.

A key objective of the MCR Program is training entry-level workers and/or professional tradespeople, as appropriate, to conduct onsite assessments for measure suitability and potential energy savings, and to complete retrofit installations for these targeted measures. Partnerships with community colleges and other local or regional organizations that can target workforce development activities in economically depressed areas of the state are also encouraged.

Bidders are encouraged to develop public and private partnerships to deploy these targeted measures quickly and effectively, leveraging other existing retrofit program funds to the extent possible. The Energy Commission intends to award ARRA SEP funds to Bidders who propose partnering with local governments, special districts or other public and private partners to achieve the goals of the MCR Program.

MCR Program funds can be used to create new or to supplement existing efficiency incentive programs, provide match funding for other ARRA program areas, establish volume purchasing mechanisms, develop audit and retrofit training programs, deploy marketing campaigns and/or complete the technology retrofits. Leveraged funding and use of revolving funds will improve the overall cost-effectiveness of proposed MCR Programs.

In accordance with federal law, ARRA SEP funds may be used to supplement existing sources of funding, but may not be used to supplant these existing funds.

TARGETED RETROFIT MEASURES

The following are examples of measures that have successfully demonstrated significant energy savings and are broadly applicable for both public and private municipal and commercial building sites:

- a) Occupancy Sensored Lighting Fixtures
 - i. SMART Parking Lot Bi-Level Fixtures
 - ii. SMART Parking Garage Bi-Level Fixtures
 - iii. SMART pathway Lighting
 - iv. SMART Wall Pack Fixtures

II. GOALS AND OBJECTIVES, CONTINUED

- v. Bi-Level Stairwell Fixtures
- b) Task Ambient Office Lighting
- c) Task Ambient Desk Lamp
- d) Classroom Lighting
- e) Refrigerator Case LED Lighting with Occupancy Sensors
- f) Lighting Controls
 - i. Wireless
 - ii. Simplified Daylighting
- g) Kitchen Exhaust Variable Air Volume Controls
- h) HVAC Controls & Fault Detection
 - i. Wireless – constant volume to variable air volume system conversion
 - ii. Fault Detection for Packaged Units and Air Handlers

Additional targeted measures may be proposed by Bidders for consideration by the Energy Commission. Proposed targeted measures must be best practice technologies that have previously demonstrated cost-effective energy savings and be broadly applicable to specific building markets. Water efficiency measures can be deployed through this MCR Program, however they must also meet the requirements just stated for energy efficiency measures. This MCR Program will not deploy measures that are currently rebated through the IOU Express Efficiency itemized measure program.

WORKFORCE DEVELOPMENT AND JOB CREATION

Trainers, energy auditors, and retrofit technicians will be needed to deploy the targeted retrofit measures in the MCR Program. Building these skills within California's workforce will also be part of the Energy Commission's ARRA SEP funded Green Jobs Training Program. The Green Jobs Training Program is working with public, private and nonprofit partners to develop a comprehensive, sustainable green workforce development program in California. The Green Jobs Program intends to leverage existing workforce partnerships by coordinating with state agencies, the State's Community College system and local workforce investment boards. At the local level, the Green Jobs Program will work with the 49 local workforce investment areas, which provide regional "one stop centers" for assessment, training and placement for job seekers and businesses, and have longstanding relationships with local government and civic leaders, economic development agencies, labor and community organizations, and businesses. Bidders shall include a plan to coordinate training delivery with the ARRA SEP funded Green Jobs Training Program to the extent possible.²

² The California Energy Commission, the California Employment Development Department, the Employment Training Panel, and the California Workforce Investment Board, in collaboration with The Green Collar Jobs Council, are leading a statewide partnership of state agencies, educational institutions, local workforce investment boards, community organizations and employers to deliver the California Green Jobs Training Program, also known as the California Clean Energy Workforce Training Program. Information about this program can be found at <http://www.energy.ca.gov/greenjobs/index.html> and at http://www.edd.ca.gov/Jobs_and_Training/WDSFP_Workforce_Development_Solicitations_for_Proposals.htm. Information about local awardees of ARRA funded Green Jobs Corp grants can be found at http://www.edd.ca.gov/Jobs_and_Training/WDSFP_CGJC_Award_list.htm. Information about the August 6,

II. GOALS AND OBJECTIVES, CONTINUED

The MCR Program must also coordinate with the State's IOUs and POUs, which operate energy training centers that provide education and workforce training related to energy efficiency. Trade unions also offer professional training that is relevant to the retrofit installation skills needed to implement the MCR Program. Bidders must explain how the training needs of the MCR Program can be met in coordination with these existing workforce development efforts across the state.

Job creation for dislocated and under employed incumbent workers in construction and related technical trades is another Program goal. Creating new jobs in areas of the state most in need of economic stimulus is also encouraged. The Energy Commission believes that partnering with community colleges, local government consortia, and local trade unions to deploy the MCR Program can provide jobs and save energy in communities throughout the state. Bidders shall explain how ARRA funded workforce education and training efforts can supply workers for the specific jobs created by the proposed program.

COLLABORATION WITH EXISTING EFFICIENCY PROGRAMS

One objective of the MCR Program is to extend, enhance, and/or complement the extensive public goods energy efficiency efforts in California. The IOU partnership programs with local governments, universities and community colleges provide an opportunity to leverage SEP dollars with public goods funds already dedicated to marketing energy efficiency and providing incentives for retrofit measures. The IOU third party programs and POU efficiency programs offer additional opportunities to leverage SEP funding. Program proposals that include leverage from IOU or POU efficiency programs must explain how the existing program strategies will be used to deploy targeted measure retrofits and how the proposed program design incorporates these existing strategies.

SUSTAINABILITY/ LASTING CHANGES IN THE MARKET

Other goals of the MCR Program are to create lasting changes in the energy efficiency of specific markets, and continue to stimulate job creation and revitalization of the economy past the term of the ARRA SEP Program. The program focus on the deployment of best practice technologies will improve sustained energy savings and perhaps positively impact consumer behavior. These goals of market transformation and sustainability are not unique to this ARRA SEP Program, in fact they are included in the most recent energy efficiency policy report, *California's Long Term Energy Efficiency Strategic Plan*³, as important goals for reducing energy usage in the state and thereby contributing to needed greenhouse gas reductions.

2009 California Clean Energy Workforce Training Program Solicitation for Proposals can be found at http://www.edd.ca.gov/Jobs_and_Training/pubs/wsin09-7.pdf

³ <http://www.californiaenergyefficiency.com/index.shtml>

II. GOALS AND OBJECTIVES, CONTINUED

The Energy Commission wholeheartedly supports the publicly funded retro-commissioning programs in California and the emerging emphasis on comprehensive commercial building retrofits. The Energy Commission believes that substantial and sustained energy use reductions in existing buildings will be required to meet the state's greenhouse gas reduction goals. Although the Municipal and Commercial Building Targeted Measure Retrofit Program is not a comprehensive retrofit program, Bidders are encouraged to develop program designs that deploy targeted measures and also increase customer awareness of and encourage action towards retro-commissioning and comprehensive retrofits.

III. Program Proposal Requirements

Please describe the program you are proposing by providing the following information and in the order itemized below.

PROGRAM TITLE

Provide the title by which the proposed program will be referenced in the proposal.

PROGRAM EXECUTIVE SUMMARY

Provide a summary of the proposed program not to exceed two pages in length. Introduce the key program concept and scope. Highlight how the proposed program responds to the goals and objectives of this RFP. Describe the specific efficiency measures and building market(s) targeted by the program. Summarize the major anticipated impacts from the program such as jobs, energy savings, technology adoption and market transformation. Bidders shall complete the Executive Summary template in Attachment 11.

PROGRAM DESIGN

Describe the overall scope and concept of the proposed program. Identify the specific efficiency measures and the municipal and/or commercial building sectors targeted in the program. Explain the program design by discussing, at a minimum, how the program addresses the following:

TARGETED RETROFIT MEASURES

Explain why each retrofit measure is a best practice technology. Describe the non-energy benefits of the measure and other features that will transform the market of the replaced technology. Document the expected per measure energy savings and peak demand reductions. Document the data collection and computation methods required to calculate the energy savings from the retrofits. Identify where in the proposed Scope of Work the energy savings accounting methodology and related data collection plan are included as deliverables.

FUND LEVERAGE

Document the amount, type, source and timing for leveraged funding that is included in the proposed program. Leveraged funding and/or resources can be provided from a variety of sources including but not limited to other ARRA SEP programs, IOU and POU energy efficiency programs, local government initiatives, public university and college energy bond programs, private financing and federal tax credits, and in-kind services of program partners. If project funds have been identified but are not available at the time of the RFP, the Bidder shall explain the expected timing and availability of the future funds. Explain how the leveraged funds reflect a commitment by the public and/or private partners to actively participate in the program and sustain the program benefits

III. Program Proposal Requirements, Continued

into the future. Explain how the leverage funding will be used to accomplish the program goals and to successfully execute the program design. Describe how the leveraged funds are commensurate with the benefits gained by the funding partners and their constituents. Identify the level of risk and other issues that may arise due to each source of leveraged funds. Reflect each component of leveraged funds in the appropriate budget worksheets.

PUBLIC AND PRIVATE PARTNERSHIPS

Describe the specific public and/or private partnerships that have been established to implement the proposed program, explain how these entities will participate in the program and reflect these partnership activities in the proposed Scope of Work. Explain the specific benefits of the partnerships in meeting the goals and objectives of this Program.

COLLABORATION WITH EXISTING EFFICIENCY PROGRAMS

Identify the specific public goods efficiency program resources that will be leveraged to deploy the retrofit technologies. Explain how the proposed program will contribute to the stated goals of *California's Long Term Energy Efficiency Strategic Plan*. Describe all collaboration with existing efficiency programs in the appropriate Program Delivery subtasks proposed in the Scope of Work.

PARTICIPANT RECRUITMENT AND PROGRAM COMMUNICATIONS

Explain the strategies and resources that are included in the proposed Scope of Work to effectively market the retrofit installations to potential participants. Describe the planned approach that will be used to educate consumers and recruit participation. Provide details on the roles of program partners to increase community and/or industry involvement to increase awareness of and demand for the targeted measures.

ECONOMICALLY DISADVANTAGED AREAS

Identify any planned program activities that will positively impact areas of the state that are economically disadvantaged and reflect these activities in the proposed Scope of Work. Economically disadvantaged areas are those that have unemployment rates that are higher than the statewide average, based on data from the Employment Development Department Labor Market Information Division, for the month of June 2009.⁴ Bidders shall compare the unemployment rates for the region covered by their proposed program compared to that of other areas of the state and the statewide average unemployment rate. Unemployment rates for areas within a region may be considered if the proposal explains how the proposed program will place emphasis on

⁴ See Employment Development Department News Release No. 09-32, July 17, 2009, http://www.edd.ca.gov/About_EDD/pdf/urate200907.pdf

III. Program Proposal Requirements, Continued

those areas. Other characteristics of economically disadvantaged areas, such as high foreclosure rates and low income levels, may also be considered if explained in the proposal.

QUALITY ASSURANCE

Provide details on the methods included in the program design to assure that the retrofit measures are installed properly, functioning efficiently and reflect these activities in the proposed Scope of Work. The Energy Commission encourages Bidders to define, implement and fine-tune acceptance test methods for the retrofit measures that can later be considered in future updates to the Title 24 Building Energy Efficiency Standards.⁵

VERIFICATION OF ENERGY SAVINGS

Describe the data collection and computation methods required to calculate the energy savings and demand reductions from the targeted measure retrofits resulting from the proposed program. Explain the activities that will be included in the program to verify the actual energy savings and demand reductions due to the retrofits.

The Energy Commission will be separately evaluating the ARRA SEP Program elements using contract resources. This separate program evaluation will include surveying a sample of retrofit program participants. In order to conduct the M&E survey, the retrofit program contractors will need to collect specific information from each program participant. The required data collection will be specified at a later date, but this data is likely to include participant address and contact information, building square footage, retrofit measures installed, retrofit costs, funding provided by the program and separately by other leveraged funding by source, and expected or measured savings. Describe the planned approach to collect and organize the required M&E data from all retrofit program participants. The evaluations may be conducted via mail, phone and/or field surveys and may also require pre-retrofit and post-retrofit utility billing data. Describe the strategies included in the proposed program to encourage retrofit participants to cooperate with these ARRA SEP Program evaluations and reflect these activities in the proposed Scope of Work.

SUSTAINABILITY/ LASTING CHANGES IN THE MARKET

Explain how the proposed program will create lasting changes in the market and continue to stimulate job creation and revitalization of the economy past the term of the ARRA SEP Program. Estimate the likelihood that the benefits of the proposed retrofits will persist over time, and justify that estimate. Describe how the deployment of best practice technologies will improve sustained energy savings. Describe the proposed

⁵ See <http://www.energy.ca.gov/title24/>

III. Program Proposal Requirements, Continued

program strategies to increase awareness of, facilitate and/or help implement retro-commissioning and comprehensive retrofits.

PROGRAM COST EFFECTIVENESS

Describe the cost effectiveness of the proposed program in terms of the DOE and ARRA goal of 10 million source Btus⁶ saved per \$1,000 of SEP money spent. Calculate the energy saved based on the total dollars spent, including leveraged funding.⁷ Provide details that explain and justify the calculations.

Explain why the requested funds are appropriate, relative to the goals and objectives of the proposed program. Justify the amount of requested funds based on the resultant value to the State such as the number and type of jobs created, energy savings, demand reductions and sustainable market change.

TEAM ORGANIZATIONAL STRUCTURE

Describe the organizational structure of the proposed program, and provide an organizational chart of the entire program team. Provide a short description of each subcontractor and partner, and explain their specific role in the program. Describe the relationship between the Bidder, subcontractors and partners. Summarize any history of working relationships between the team members, noting any significant success stories. Identify the location of the Bidder's, subcontractors' and partners' business locations and discuss methods of minimizing costs to the State. Identify a primary contact person for the program. Describe any technical capabilities that would facilitate communicating with the Energy Commission and managing the program (e.g., web conferencing, web portal for document management and team collaboration).

WORKFORCE DEVELOPMENT AND JOB CREATION

Use the Council of Economic Advisers' Estimates of Job Creation from the ARRA (May 2009) to provide a high level, formula-based estimate of jobs created by the proposed program. Divide the total investment in the proposed program by \$92,000 to estimate the number of direct jobs created. The total investment will include ARRA SEP funding and all leveraged funds.

Describe each of the types of jobs expected to be created or retained by the proposed program. Provide an estimate of the number of direct jobs expected to be created based on the labor requirements for the proposed audits and retrofits as well as the proposed plans for program marketing, participant recruitment and other job inducing program components.

⁶ Electric energy saved will be converted to source BTUs by multiplying kWh by 10,239 BTU/kWh

⁷ Proposed programs with leveraged funding will likely be more cost effective, because energy savings for entire program is considered. This includes the energy savings associated with leveraged funding.

III. Program Proposal Requirements, Continued

Describe the proposed approach to training auditors, retrofit technicians and other professionals as appropriate to implement the proposed program. Explain the coordination planned with the Green Jobs Training Program, utility training centers and other existing or emerging workforce development efforts across the state to bring new workers into the energy efficiency workforce and provide new job skills to professional tradespeople. Identify all workforce development and job creation activities in the Program Delivery subtasks proposed in the Scope of Work.

ENERGY, PEAK DEMAND, AND GHG EMISSIONS REDUCTIONS

Document, explain and justify the estimates of electricity savings, natural gas savings and peak demand reductions expected from the proposed program. The Energy Commission will use California-specific emission factors to calculate the greenhouse gas emission reductions expected from the energy savings estimates provided by the Bidder. The Bidder does not need to provide estimates of the GHG emission reductions from the proposed program, but must provide the estimates of electricity and natural gas savings necessary for the Energy Commission to calculate the GHG reductions.

TIME CRITICALITY

Demonstrate that the requested ARRA SEP funding will be expended to complete all planned energy retrofits by March 31, 2012. Document the proposed plans to monitor implementation progress so that program resources can be adjusted as necessary to achieve the proposed retrofit savings by the March 2012 deadline. Provide a schedule from start of contract (assume start date of January 1, 2010) to March 31, 2012, that delineates progress reports, Critical Program Reviews and other program milestones. Include information and/or evidence that support this schedule. Provide details in the Proposed Scope of Work that establish certainty that progress reports will be provided and Critical Program Reviews will be conducted so that resources can be reallocated by June 1, 2010, if necessary.

PROGRAM TRANSPARENCY AND REPORTING

Explain how the Bidder will comply with the transparency and reporting requirements of the Federal Government, State of California, Energy Commission, ARRA, and DOE for SEP programs. Provide details on how the Bidder will enforce these transparency and reporting requirements for sub recipients and vendors. Describe the proposed methods to collect project performance data, compute key project metrics, transfer data to the Energy Commission, publish project results and reflect these activities in the Proposed Scope of Work. Explain how the Bidder's methods are designed to be flexible enough to meet probable changes to known tracking and reporting requirements for ARRA SEP programs.

Describe the financial and accounting processes and procedures the Bidder will use to safeguard ARRA SEP funds from fraud, misuse and waste. Bidders that are awarded

III. Program Proposal Requirements, Continued

SEP funds must implement adequate financial and accounting processes and procedures to safeguard ARRA SEP from fraud, misuse and fraud. The Energy Commission is informed that it will likely be audited by both the State and DOE. As part of these audits an awarded bidder's contract may also be audited. Attachment 16 lists the elements of a program that could be considered as part of audit. This list is provided by way of example only and is NOT exhaustive of the elements or the type of information that could be considered as part of an audit.

PROGRAM TEAM QUALIFICATIONS AND EXPERIENCE

Document the program team's qualifications for conducting a highly effective program that will be very effective in meeting the goals, objectives and strategies identified in this RFP, and performing the tasks described in the Scope of Work. Describe the nature and scope of prior work as it relates to the goals, objectives, and strategies of this RFP and tasks in the Scope of Work. List all Bidder staff, subcontractor staff and partners, even if these partners do not receive ARRA funding, and describe their roles in completing each task. List job classifications, relevant experience, education, academic degrees, and professional licenses of these staff and partners. Provide a current resume for all team members. Identify the percentage of time each team member will be available throughout the contract. Reflect each team member's participation in the Scope of Work tasks and subtasks in the appropriate budget worksheets.

SCOPE OF WORK AND DELIVERABLES

Clearly lay out the plan to achieve the goals and objectives of the proposed program. Articulate the sequence of tasks, milestones, sub-tasks and deliverables necessary to conduct the program activities and document progress and accomplishments.

Include a program goal statement and the following required tasks and deliverables in the Scope of Work for the proposed program. The bidder shall plan for the completion of these required tasks in its proposed program budget and schedule. Provide a scope of work that is logical and reasonably sequences tasks. Add subtasks to the Program Delivery Task with detailed lists of contractor activities that demonstrate a clear, appropriate and complete plan for achieving the objectives of the program. Include well-defined sets of intermediate and final deliverables within the subtasks. Describe how the program partners will be involved in each subtask. Clearly demonstrate how each aspect of the program design is integrated into the list of subtasks, contractor activities and deliverables. Identify and assess potential risks, and include plans for mitigating these risks.

Program Goal

Include a plausible overall program goal that summarizes the proposed program design.

III. Program Proposal Requirements, Continued

Task 1: Contract Management

Kickoff Meeting

The goal of this task is to establish the lines of communication and procedures for implementing this agreement.

The Contractor shall:

Attend a “kick-off” meeting with the Commission Contract Manager, the Contracts Officer, and a representative of the Accounting Office. The Contractor shall bring their Project Manager, Contracts Administrator, Accounting Officer, and others designated by the Commission Contract Manager to this meeting. The administrative and technical aspects of the Agreement will be discussed at the meeting. Prior to the kick-off meeting, the Commission Contract Manager will provide an agenda to all potential meeting participants.

The administrative portion of the meeting shall include, but not be limited to, the following:

- Terms and conditions of the Agreement
- Critical Project Reviews – expectations and schedule
- Leverage fund documentation
- Permit documentation
- Training on ARRA, SEP reporting requirements

The technical portion of the meeting shall include, but not be limited to, the following:

- The Commission Contract Manager’s expectations for accomplishing tasks described in the Scope of Work;
- An updated Schedule of Deliverables
- Processes for submitting, reviewing and approving Progress Reports, Task Deliverables and Final Report

The Commission Contract Manager shall designate the date and location of this meeting.

Invoices

The Contractor shall prepare an invoice for all contract expenses performed at each stage of the proposed program. The official invoice is to be submitted to the Energy Commission’s Accounting Office.

Subcontractors

III. Program Proposal Requirements, Continued

The contractor shall manage and coordinate subcontractor activities. The Contractor is responsible for the quality of all subcontractor work and the Energy Commission will assign all work to the Contractor. If new subcontractors are added, the Contractor shall notify the CCM who will follow the Energy Commission's process for adding or replacing subcontractors.

Monthly Progress Reporting

The goal of this task is to periodically verify that satisfactory and continued progress is made towards achieving the objectives of the program. This task includes the mandatory reporting activities for the ARRA SEP programs.

The Contractor shall:

- Prepare progress reports which summarize all contract activities conducted by the Contractor for the previous month, including an assessment of the ability to complete the contract within the current budget and any anticipated cost overruns.
- Submit each progress report to the CCM within 15 working days after the end of the previous month.
- Submit electronic data to ARRA SEP tracking and reporting entities (e.g. the Energy Commission, OMB, DOE)

Deliverables:

- Monthly Progress Reports
- Monthly submittal of electronic data to ARRA SEP tracking and reporting entities

Critical Program Reviews

The goal of this task is to determine if the Contractor's program shall continue to receive SEP funding to complete this Agreement and whether there are any modifications that need to be made to the tasks, subtasks, deliverables, schedule, or budget. The first Critical Program Review (CPR) shall be held within the first six months of the contract's start date to determine the level of funding that is appropriate for the tasks and to insure work will be completed on schedule. Additional CPRs shall be scheduled throughout the term of the contract.

CPRs provide the opportunity for frank discussions between the Energy Commission and the Contractor. CPRs generally take place at key, predetermined points in the Agreement, as determined by the Energy Commission Contract Manager and as shown in the Technical Task List and in the Schedule of Deliverables. However, the Energy Commission Contract Manager may schedule additional CPRs as necessary, and any additional costs will be borne by the Contractor.

III. Program Proposal Requirements, Continued

Participants in the CPRs include the Energy Commission Contract Manager and the Contractor, and may include the Commission Contracts Officer, one or more members of the ARRA Committee or their designee, other Energy Commission staff and management, and any other individuals selected by the Energy Commission Contract Manager to provide support to the Energy Commission.

The Energy Commission Contract Manager shall:

- Determine the location, date and time of each CPR meeting with the Contractor. These meetings generally take place at the Energy Commission, but they may take place at another location.
- Send the Contractor the agenda and a list of expected participants in advance of each CPR.
- Conduct and make a record of each CPR meeting. One of the outcomes of this meeting will be a schedule for providing the written determination described below.
- Determine whether to continue the program, and if so, whether or not to modify the tasks, subtasks, schedule, deliverables, and budget for the remainder of the Agreement, including not proceeding with one or more subtasks. If the Energy Commission Contract Manager concludes that satisfactory progress is not being made, this conclusion will be referred to the Energy Commission's ARRA Committee for its concurrence.
- Provide the Contractor with a written determination in accordance with the schedule. The written response may include a requirement for the Contractor to revise one or more deliverables that were included in the CPR. The written determination may also include the Energy Commission decision on the amount of ARRA SEP funds to encumber into the Agreement.

The Contractor shall:

- Prepare a CPR report for each CPR that discusses the progress of the Agreement toward achieving its goals and objectives. This report shall include recommendations and conclusions regarding continued program activities. This report shall be submitted along with any other relevant deliverables identified in the Scope of Work. These documents shall be submitted to the Commission Contract Manager and any other designated reviewers at least 5 working days in advance of each CPR meeting.
- Present the required information at each CPR meeting and participate in a discussion about the Agreement.

Deliverables:

- CPR Report

III. Program Proposal Requirements, Continued

- CPR deliverables identified in the Scope of Work

Final Report

The goal of this task is to prepare a comprehensive written Final Report that describes the original purpose, approach, results and conclusions of the work done under this contract. The CCM will review and approve the Final Report. The Final Report must be completed on or before the termination date of the contract.

Task 2: Program Delivery

Implementation Plan

The goal of this task is to develop a detailed plan to complete the *<Insert Program Title>* program.

The Contractor shall prepare a Draft Implementation Plan that includes, but is not limited to, the following:

- A detailed presentation of how the program will deliver the goals, objectives and strategies of this RFP and the tasks in the Scope of Work.
- A list of the specific activities that will be conducted to deliver the program,
- Explanations for how the contractor, and each subcontractor and program partner will contribute to the completion of the program activities,
- Explanations for how the contractor, each subcontractor and program partner will comply with the ARRA SEP program reporting and M&E data collection requirements,
- A timeline for the program that delineates the schedule for each program activity,
- Milestones that can be used to gauge progress towards the program objectives,
- Contingency plans for the critical components of the program.

The Contractor shall also:

- Present the draft Implementation Plan to the Commission Contract Manager via a phone conference or physical meeting,
- Prepare the Final Implementation Plan that addresses the comments received on the draft plan.

Deliverables:

- Draft Implementation Plan
- Final Implementation Plan

Additional Subtasks

Bidders shall include additional subtasks under the Program Delivery Task as necessary to successfully complete the proposed program. The following list of

III. Program Proposal Requirements, Continued

subtasks includes examples of appropriate program activities that could be included as Program Delivery subtasks:

- Workforce Development
- Participant Recruitment
- Energy Audits
- Retrofit Installations
- Quality Assurance
- Verification of Energy Savings
- Program Reporting

Each subtask must include a description of the task goal, a list of contractor activities, and resulting deliverables.

Deliverables and Due Dates

Summarize the deliverables and due dates for the Scope of Work in a tabular format. The deliverables already listed are contract requirements that the bidder must incorporate into the proposed deliverables list and also budget and schedule resources for in the proposal.

Task	Deliverable	Due Date
1	Monthly Progress Reports	Monthly
1	Critical Program Review Reports	
1	Final Report	
2	Draft Implementation Plan	
2	Final Implementation Plan	
2		
2		
2		
2		

BUDGET AND SCHEDULE

Provide a budget and schedule for each task and subtask included in the proposed Scope of Work.

Demonstrate that the budget information is consistent with the proposed scope of work and itemizes reasonable costs for personnel, subcontractors, materials, operating expenses, fees, etc., for each subtask. Provide sufficient budget information to allow the Energy Commission to evaluate that there is an appropriate ratio of direct versus indirect costs considering Indirect Overhead, General and Administrative and Profit

III. Program Proposal Requirements, Continued

percentage rates. Indicate the total program budget, ARRA SEP budget, and the leveraged funds budget for each task and subtask in the scope of work. Justify the expenditures by subtask by itemizing the budget in sufficient detail. The budget must be delineated by personal services, subcontractors, operating expenses, fees, and total expenditures. Demonstrate that the key personnel and subcontractors will be committed to the proposed program for the appropriate number of hours and functions to accomplish the activities described in the scope of work.

The budget must be prepared in accordance with Attachment 12.

CLIENT REFERENCES

Include three customer references each for the Bidder and each subcontractor.

See Attachment 5.

IV. Proposal Format and Required Documents

ABOUT THIS SECTION

This section contains the format requirements and instructions for responding to this RFP. The format is prescribed to assist the Bidder in meeting State bidding requirements and to enable the Energy Commission to evaluate each proposal uniformly and fairly. Bidders must follow all Proposal format instructions, answer all questions, and supply all requested information.

LIMITATION IN THE PROPOSAL FORMAT AND LENGTH

Proposals must be presented in a clear, complete, and concise manner. The Technical Program Proposal (Volume II), exclusive of Table of Contents and Attachments, shall be kept to a maximum of fifty (50) pages. Bidders are strongly encouraged to limit the length of their proposals while adequately covering the proposal requirements.

Bidders who believe that supporting documentation or explanation beyond the fifty (50)-page limit are needed may attach such information in appendices to their proposal.

NOTICE OF INTENT TO BID REQUIREMENT

Bidders are **required** to submit a "Notice of Intent to Bid" (RFP Attachment 10) to the Energy Commission by the date and to the address listed in this RFP. The Notice may also be faxed to the Energy Commission's Contracts Office at (916) 654-4423 before the deadline. This Notice will be used to aid the Energy Commission in determining the resources needed for evaluation of proposals that are subsequently submitted. All Notices of Intent to Bid received by the Energy Commission will be kept confidential until the Notice of Proposed Awards is posted.

Bidders that fail to submit a Notice of Intent to Bid by the specified deadline are precluded from submitting a proposal for consideration under this solicitation. A proposal submitted by the bidder will be rejected, will not be scored or considered for funding.

REQUIRED FORMAT FOR A PROPOSAL

All proposals submitted under this RFP must be typed or printed using a standard 11-point font, singled-spaced and a blank line between paragraphs. Pages must be numbered and sections titled and printed back-to-back. Spiral or comb binding is preferred. Binders are discouraged.

NUMBER OF COPIES

Bidders must submit the original and 6 copies of the Administrative Response (Volume 1), and Technical Program Proposal (Volume 2).

Bidders must also submit electronic files of the proposal on **CD-ROM diskette** along with the paper submittal. Electronic files must be in Microsoft Word XP (.doc format) and Excel Office Suite formats. Electronic files submitted via e-mail will not be accepted.

IV. PROPOSAL FORMAT AND REQUIRED DOCUMENTS, CONTINUED

PACKAGING AND LABELING

The original and copies of each volume must be labeled "Request for Proposal 400-09-402," and include the title of the proposal and the appropriate volume number:

Volume 1 – Administrative Response

Volume 2 – Technical Program Proposal

Include the following label information and deliver your proposal, in a sealed package:

Person's Name, Phone # Bidder's Name Street Address City, State, Zip Code FAX #	RFP 400-09-403 Contracts Office, MS-18 California Energy Commission 1516 Ninth Street, 1st Floor Sacramento, California 95814
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PREFERRED METHOD FOR DELIVERY

A Bidder may deliver a proposal by:

- U. S. Mail
- Personally
- Courier service

Proposals must be delivered no later than 5:00 p.m., to the Energy Commission Contracts Office during normal business hours and prior to the date and time specified in this RFP. In accordance with Public Contract Code 10344, proposals received after the specified date and time are considered late and will not be accepted. There are no exceptions to this law. Postmark dates of mailing, E-mail and facsimile (FAX) transmissions are not accepted under any circumstances and are not acceptable toward meeting the submission deadline for proposal delivery.

IV. PROPOSAL FORMAT AND REQUIRED DOCUMENTS, CONTINUED

ORGANIZE YOUR PROPOSAL AS FOLLOWS:

VOLUME 1, ADMINISTRATIVE RESPONSE

Cover Letter	
Table of Contents	
Contractor Status Form	Attachment 1
Darfur Contracting Act Form	Attachment 2
Small Business Preference Certification	(If applicable)
Completed Disabled Veteran Business Enterprise form	Attachment 3.2
Disabled Veteran Enterprise Declarations; Std. 843	Attachment 3.3
Bidder Declaration form GSPD-05-105	Attachment 3.4
Contractor Certification Clauses	Attachment 4
Attachment 7, Target Area Control Preference Act	(If applicable)
Attachment 8, Enterprise Zone Act	(If applicable)
Attachment 9, Local Agency Military Base Recovery Act	(If applicable)
Notice of Intent to Bid	Attachment 10
Executive Summary	Attachment 11
National Environmental Protection Act (NEPA)	Attachment 12
Davis Bacon Act Prevailing Wage Q&A	Attachment 13
California Law Prevailing Wage Requirements	Attachment 14
Bidder Authorizing Resolution	Attachment 15
Auditing Consideration	Attachment 16
Financial Management Information	Attachment 17
California Environmental Quality Act(CEQA) Compliance Form	Attachment 18
Reporting and Tracking Spreadsheets	Attachment 19
National Historic Preservation Act(NHPA)	Attachment 20
Budget Workbook Exhibit-A, Ex-B, Ex-F	Attachment 21

VOLUME 2, PROGRAM PROPOSAL

- A. Program Title
- B. Program Executive Summary
- C. Program Design
 - 1. Leverage of Funding
 - 2. Sustainability/Lasting Changes in the Market
 - 3. Regional Approach
 - 4. Quality Assurance
 - 5. Conformance with California Law
 - 6. Collaboration with National and State Programs
 - 7. Targeting Economically Disadvantaged Areas
 - 8. Verification of Energy Savings
 - 9. Participant Recruitment and Communication
 - 10. Program Cost Effectiveness
 - 11. Team Organizational Structure

IV. PROPOSAL FORMAT AND REQUIRED DOCUMENTS, CONTINUED

- D. Workforce Development and Job Creation
- E. Energy, Peak Demand and GHG Emissions Reduction
- F. Time Criticality
- G. Program Transparency and Reporting
- H. Scope of Work and Deliverables
- I. Budget and Schedule
- J. Client References

V. Administration Information

This Section V Proposal Administration contains information that applies to this RFP and normally applies to Energy Commission solicitations. The following Section VI ARRA Specific Important Information contains information that applies to this RFP that is unique to ARRA funding.

RFP DEFINED

The competitive method used for this solicitation is a Request for Proposal (RFP). A proposal submitted in response to this RFP will be scored and ranked based on the Evaluation Criteria. Every proposal must establish in writing the Bidder's ability to perform the RFP tasks and propose a set of tasks acceptable to the Energy Commission.

EQUIPMENT PURCHASES

We recommend that you use your own funds as well as other sources of funds which would be considered leverage funds to procure and/or build equipment. If State funds are used to purchase or build equipment, the State retains ownership interest in the equipment. (See Section VI *Key Words and Their Definitions*.)

Equipment purchased with Federal funds is subject to the equipment provisions of Title 10 Code of Federal Regulations (Part 600: DOE Financial Assistance Regulations (<http://ecfr.gpoaccess.gov>)). If State funds are used to purchase or build equipment, the State retains ownership interest in the equipment.

Confidential Submittals Will Not Be Accepted

The Energy Commission will not accept or retain any proposals that are marked confidential in their entirety or seek to have any part of the proposal treated as confidential.

Treatment of Proposals

All proposals submitted will become public records and available for inspection after the Energy Commission completes the evaluation and/or scoring process and the Notice of Proposed Awards is posted or the RFP is cancelled. Bidders who want any work examples they submitted with their proposals returned to them shall make this request and provide either sufficient postage, or a Courier Charge Code to fund the cost of returning the examples.

Information Considered Confidential

Consistent with its confidentiality regulations, and the California Public Records Act (Government Code Section 6250 et. seq), the Energy Commission generally will grant confidential treatment for information that will be an Agreement deliverable that is information typically held in confidence. Examples include:

- Information that is patent pending (until a patent has been approved), including patent application numbers
- Technical trade secrets (e.g., detailed technical drawings)

V. ADMINISTRATION INFORMATION

- Marketing/business trade secrets (e.g., energy use data for an individual commercial or industrial facility, pending strategic partnerships with manufacturers)
- Economic/financial trade secrets (e.g., income tax records).

Conversely, the Energy Commission will **not** allow confidential treatment for certain other types of information. Bidders are cautioned against seeking confidentiality for the following types of information:

- Project descriptions/scope of work (including task descriptions, schedule of deliverables and due dates).
- Proposed project budgets (ARRA and leverage fund), including labor rates, overhead, direct labor, other direct costs, profit, and the like.
- Disabled Veterans Business Enterprise information.
- Names of employees, subcontractors and leverage fund participants.
- Test plans and reports.
- Progress reports.
- Final reports.

The Energy Commission may allow technical and business trade secrets to be reported in separate confidential addenda to test reports and final reports.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Some of the Programs selected for funding may meet the definition of a “project” for purposes of CEQA (see Public Resources Code section 21000 et seq.) If this occurs, the Energy Commission’s Legal Staff will review the Program to determine whether an exemption applies that would prevent further actions under CEQA. If no exemption applies, certain CEQA requirements (e.g., preparation of a negative declaration or environmental impact report) will have to be met prior to the Energy Commission approving the agreement. The Bidder will have to pay the cost for these activities. (Please refer to Title 20, California Code of Regulations, Chapter 6, Article 1, including section 2308.)

COST OF DEVELOPING PROPOSAL

The Bidder is responsible for the cost of developing a proposal, and this cost cannot be charged to the State.

DARFUR CONTRACTING ACT OF 2008

Effective January 1, 2009, all Requests for Proposals (RFP) must address the requirements of the Darfur Contracting Act of 2008 (Act). (Public Contract Code sections 10475, et seq.; Stats. 2008, Ch. 272). The Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with “scrutinized” companies that do business in the African nation of

V. ADMINISTRATION INFORMATION

Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.

A scrutinized company is a company doing business in Sudan as defined in Public Contract Code section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 10477(a)).

Therefore, Public Contract Code section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a “scrutinized” company when it submits a bid or proposal to a State agency. (See # 1 on Attachment 2).

A scrutinized company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in Public Contract Code section 10477(b). (See # 2 on Attachment 2).

DISABLED VETERAN BUSINESS ENTERPRISES (DVBE) COMPLIANCE REQUIREMENTS

The Disabled Veteran Business Enterprise (DVBE) Program has two inter-related aspects:

Participation Goals: The mandatory DVBE Participation Program of achieving participation goals (normally 3% for disabled veteran business enterprises) by attaining the minimum 3% goal.

And,

Incentive: The DVBE Incentive Program gives a contractor an opportunity to improve their bid status based on the efforts attained from the DVBE Participation Program.

This RFP is subject to a participation goal of three percent (3%) certified California Disabled Veteran Business Enterprise (DVBE) as set forth in Public Contract Code Section 10115 et seq. Before you begin to prepare your response to this RFP, you will need to document DVBE Participation Program requirements.

If it is in the State’s best interest, the Energy Commission reserves the right to do any of the following:

- Cancel this RFP;
- Amend this RFP as needed; or
- Reject any or all proposals received in response to this RFP

V. ADMINISTRATION INFORMATION

RFP CANCELLATION AND AMENDMENTS

If it is in the State's best interest, the Energy Commission may amend or cancel this RFP. It is the policy of the Energy Commission not to solicit proposals unless there is a bona fide intention to award an Agreement. The Energy Commission reserves the right to do any of the following:

- Cancel this RFP.
- Revise the amount of funds available under this RFP.
- Amend or revise this RFP as needed.
- Reject any or all proposals received in response to this RFP.
- Make no awards under any one or more solicitations; or to award all funds under one or more solicitations; or to award all funds to one bidder.

If the RFP is amended, the Energy Commission will send an addendum to all parties who requested the RFP and will also post it on the Energy Commission's Web Site www.energy.ca.gov/contracts and Department of General Services' Web Site www.cscr.dgs.ca.gov/cscr.

ERRORS

If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the Bidder shall immediately notify the Energy Commission of such error in writing and request modification or clarification of the document. Modifications or clarifications will be given by written notice to all parties who requested the RFP, without divulging the source of the request for clarification. The Energy Commission shall not be responsible for failure to correct errors.

MODIFYING OR WITHDRAWAL OF PROPOSAL

A Bidder may, by letter to the Contact Person at the Energy Commission, withdraw or modify a submitted Proposal before the deadline to submit proposals. Proposals cannot be changed after that date and time. A Proposal cannot be "timed" to expire on a specific date. For example, a statement such as the following is non-responsive to the RFP: "This proposal and the cost estimate are valid for 60 days."

IMMATERIAL DEFECT

The Energy Commission may waive any immaterial defect or deviation contained in a Bidder's proposal. The Energy Commission's waiver shall in no way modify the proposal or excuse the successful Bidder from full compliance.

BIDDERS' ADMONISHMENT

Prior to submitting a Proposal, Bidders must take the responsibility to:

- Carefully read the entire RFP.
- Ask appropriate questions in a timely manner.
- Submit all required responses in a complete manner by the required date and time.
- Make sure that all procedures and requirements of the RFP are followed and appropriately addressed.

V. ADMINISTRATION INFORMATION

- Carefully reread the entire RFP before submitting a Proposal.
- Read all sample agreement terms and conditions and ask questions in a timely manner.

GOVERNING BOARD DOCUMENTATION

Prior to the execution of any agreement by a city or county, all city and county bidders must provide an original signed resolution (or copy with original signed certification), order, motion, or ordinance of the local governing body that by law has authority to enter into the agreement. This document must authorize the recipient to enter into the agreement and designate an authorized representative to execute all necessary agreements to implement and carry out the purposes of the award. If an eligible bidder is applying under a collaborative partnership involving several local governments, the governing board resolution or order must state the bidder is authorizing the collaborative lead/prime bidder to apply for and receive funding on its behalf. The recipient cannot begin Energy Commission-funded work until the resolution, order, motion, or ordinance has been fully executed and submitted to the Energy Commission and the Energy Commission has approved the contract agreement. The Energy Commission reserves the right to withdraw a proposed award if these governing board resolutions are not received by January 18, 2010.

In addition, whenever a local government is serving as the collaborative lead/prime bidder, that local government shall provide documentation that it is authorized by its governing board to submit a proposal on behalf of the other collaborative partners in the proposed program. Proposals should also include letters of commitment from each collaborative partner that describe their role in the proposed program and, in the case of local governments, the intent to provide the governing board resolution described in the first paragraph above by no later than January 18, 2010, if the proposal is selected for funding and included in the Notice of Proposed Awards.

AGREEMENT REQUIREMENTS

The content of this RFP shall be incorporated by reference into the final contract. See the sample Agreement terms and conditions included in this RFP.

No Contract Until Signed & Approved

No agreement between the Energy Commission and the successful Bidder is in effect until the agreement is signed by the Contractor, approved at a Energy Commission Business Meeting, and approved by the Department of General Services, Legal Office, if required.

Conditions or Limits on Awards

The Energy Commission reserves the right to condition, modify or otherwise limit any and all ARRA contract agreements made pursuant to this RFP.

V. ADMINISTRATION INFORMATION

Audit

The Bureau of State Audits may audit an Agreement awarded under this RFP up to a period of three years after the final payment or termination of the Agreement.

Subcontractors

The Bidder must submit the information required in the Project Team Section of the proposal for all Subcontractors including DVBE subcontractors as well as the budget forms.

The Contractor is responsible for the quality of all subcontractor work, and may only replace Subcontractors as specified under the Agreement Terms and Conditions.

Contract Amendment

The contract executed as a result of this RFP will be able to be amended by mutual consent of the Energy Commission and the Contractor. The contract may require amendment as a result of project review, changes and additions of subcontractors, changes in project scope, reductions in funding or availability of funding.

INTERPRETATION

Nothing in this RFP shall be construed to abridge the powers or authority of the Energy Commission or any Energy Commission-designated Committee as specified in Division 15 of the Public Resources Code, commencing with Section 25000, or Division 2 of Title 20 of the California Code of Regulations, commencing with Section 1001.

AGREEMENT AWARD

After Stage Two scoring and the ARRA Committee's decision on the SEP portfolio funding considering the rank order of eligible proposals under the Solicitations, the Notice of Proposed Awards (NOPA) for each solicitation will be posted for five (5) working days at the Energy Commission's headquarters in Sacramento, and on the Energy Commission's and the DGS' web site. In addition, each Bidder under this solicitation will be mailed a copy of the NOPA for this solicitation. Upon completion of the five (5)-day notice period, an award package will be prepared and sent to each successful Bidder. The award package will include at a minimum the following:

- An agreement that includes the terms and conditions applicable to the award, and signature blocks for the recipient and Energy Commission.
- A detailed description of project activities.
- A schedule of project activities and corresponding due dates.
- An itemized budget for the project that identifies all related costs and expenses, including leveraging funding and sources.

The Energy Commission will not consider any substantive changes to the Agreement "terms and conditions" contained in this RFP. If, for any reason, a successful Bidder does not sign the Agreement documents within time allotted, the Energy Commission may eliminate that Proposal from its award list and select the next highest ranked

V. ADMINISTRATION INFORMATION

Proposal for funding from the SEP portfolio funding rank order of eligible proposals under the Solicitations.

The Energy Commission will consider approval of each Agreement at a publicly noticed Energy Commission Business Meeting. The Energy Commission at that time may approve more than one Agreement.

UNSUCCESSFUL PROPOSALS

After the NOPA is posted, each unsuccessful Bidder may request a debriefing meeting with the Energy Commission Contract Office. The debriefing meeting is an opportunity for an unsuccessful Bidder to learn why their particular proposal was not successful and may provide insight to improving proposal preparation for future solicitations.

APPROVAL OF AWARDS

The ARRA Committee will make recommendations for all contract awards, and an agreement will be prepared. The agreement will include the project description, work statement tasks and milestones, budget, and schedule. The agreement must be approved at an Energy Commission Business Meeting. Failure to meet any work statement task or milestone within the schedule or budget specified in the agreement may result in cancellation of the agreement by the Energy Commission.

The Energy Commission reserves the right to reduce an agreement amount to an amount deemed appropriate in the event the budgeted funds do not provide full funding of Energy Commission contracts. In this event, the Contractor and the Energy Commission Contract Manager shall meet and reach agreement on a reduced scope of work commensurate with the level of available funding.

AWARD PAYMENTS AND INVOICING

Award payments shall be subject to the following conditions:

- Payments will be made on a reimbursement basis, after the recipient submits the appropriate invoice(s) to the Energy Commission. (If a bidder is receiving funds from other funding source(s), total funds requested from all sources shall not exceed the total cost of the project.
- Ten percent (10%) of the agreement amount will be withheld as retention until the final report is received from the bidder and the Energy Commission's Contract Manager determines the Project has been satisfactorily completed. Typically, the Energy Commission withholds 10% from each invoice throughout the program period, and then the bidder submits a retention invoice once all contract deliverables have been satisfactorily completed. If requested, the Energy Commission can pay up to 90% of the agreement amount before the end of the agreement instead of withholding retention from each invoice.
- All invoices must be submitted with a completed payment request form, as specified by the Energy Commission, and accompanied by all backup documentation. The backup documentation must include copies of paid invoices

V. ADMINISTRATION INFORMATION

and receipts detailing the specific equipment purchased, the services produced, and personnel time records where appropriate.

- Prior to final payment, the Energy Commission reserves the right to verify that the amount of the agreement, when combined with all other sources of funding for the project, including any utility rebates or incentives, does not exceed 100% of the total project cost.
- Energy Commission staff must approve all invoices. Such approval is subject to the recipient's acceptable submittal of the required progress reports, other specified products, and the appropriateness of the invoiced expenses under the agreement.

GROUND TO REJECT A PROPOSAL

A Proposal shall be rejected if:

- It is received after the exact time and date set for receipt of Proposal's pursuant to Public Contract Code, Section 10344.
- It is considered non-responsive to the California Disabled Veteran Business Enterprise participation requirements.
- DVBE advertising is less than 14 days prior to bid due date.
- It is lacking a properly executed Certification Clauses.
- It is lacking a properly executed Darfur Contracting Act.
- It contains false or intentionally misleading statements or references which do not support an attribute or condition contended by the Bidder.
- The proposal is intended to erroneously and fallaciously mislead the State in its evaluation of the proposal and the attribute, condition, or capability is a requirement of this RFP.
- There is a conflict of interest as contained in Public Contract Code Sections 10410-10412 and/or 10365.5.
- Non-compliance with the Single Audit Act and OMB Circular A-133.
- An Intention to Bid was not received prior to the due date specified.
- The bidder is seeking confidentiality of its proposal or of its contents.
- It does not comply with the Single Audit Act and OMB Circular A-B3

V. ADMINISTRATION INFORMATION

A Proposal may be rejected if:

- It is not prepared in the mandatory format described.
- It is unsigned.
- The firm or individual has submitted multiple proposals for each task.
- It does not literally comply or contains caveats that conflict with the RFP and the variation or deviation is not material, or it is otherwise non-responsive.

PROTEST PROCEDURES

A Bidder may file a protest against the proposed awarding of a contract. Once a protest has been filed, contracts will not be awarded until either the protest is withdrawn, the Energy Commission cancels the RFP, or the Department of General Services decides the matter.

Please note the following:

- Protests are limited to the grounds contained in the California Public Contract Code Section 10345.
- During the five working days that the Notice of Proposed Award (NOPA) is posted, protests must be filed with the DGS Legal Office and the Energy Commission Contracts Office.
- Within five days after filing the protest, the protesting Bidder must file with the DGS and the Energy Commission Contracts Office a full and complete written statement specifying the grounds for the protest.
- If the protest is not withdrawn or the RFP is not canceled, DGS will decide the matter. There may be a formal hearing conducted by a DGS hearing officer or there may be briefs prepared by the Bidder and the Energy Commission for the DGS hearing officer consideration.

VI. ARRA SPECIFIC IMPORTANT INFORMATION

This section provides information that is specific to this ARRA funded solicitation. Most of these paragraphs have been taken from the Energy Commissions State Energy Program Guidelines adopted September 30, 2009.

INFORMATION ON COMPLYING WITH SINGLE AUDIT ACT

If you are a public entity expecting to receive and use any federal funds, you must comply with the Single Audit Act and Office of Management and Budget (OMB) Circular A-133.

- How to Comply with the Single Audit Act: (http://www.energy.ca.gov/recovery/documents/2009-08-17_OMB_A-133_The_Single_Audit_Act.pdf)

LEVERAGE FUNDING

Leverage funding may be separate funding, rebates (from utilities or other sources), tax credits, in-kind services, or any combination thereof. In-kind contributions include, but are not limited to, donated labor hours, equipment, facilities, property, and arrangements with partners, including utilities and others, to contribute to the goals and purpose of the program. Separate funding may be contributed by the Bidder, public or private partners or investors, or investment in retrofits from the property owners participating in the proposed program.

Prior investments in the work related to the Bidder's proposed program do not qualify as leverage funding. If the Bidder is applying for funds under more than one SEP program RFP using the same leverage funding, the Bidder shall provide the percentage of this leverage funding that is being identified for each program. The Bidder shall explain how this percentage will change for each program if the Bidder is not awarded SEP funding for its proposals for the other programs, where applicable.

Equipment, facilities and most property can count as leverage funding as long as they are fully dedicated to the program for the time the equipment, facility or property is required by the Agreement, and as long as the value of the contribution is based on documented market values or book values and is depreciated or amortized over the term of the program using standard accounting principles. Equipment, facilities and property that do not qualify as Leverage funds include standard office supplies and other property or equipment that are part of the Bidder's normal business activity (including desks, typewriters, telephones, computers, and software).

The Energy Commission reserves the right to review and approve or disapprove the types and amounts of leverage funding credited to the proposed program.

Budgets shall show leverage funding contributions at the task level and for each source. Utility rebates and in-kind services that contribute to achievement of the proposed program, for example, must be clearly identified.

VI. ARRA SPECIFIC IMPORTANT INFORMATION

Leverage funding contributions must be spent concurrently with SEP funds, and only on the tasks described in the proposal.

SEP funds cannot be spent until the Department of General Services, Office of Legal Services (DGS-OLS) approves the Agreement, which has already been signed by both the Contractor and the Energy Commission. Leverage funds may be spent between the date the Energy Commission approves the Agreement and the date the Agreement is approved by DGS-OLS subject to prior written approval by the Commission Contract Manager and at the contractor's own risk.

The loss of leverage funding during the Agreement is a reason for the Energy Commission to hold a Critical Project Review and may result in the termination or amendment of the Agreement.

PERIOD OF PERFORMANCE

Pursuant to the federal SEP guidelines, all activities that are awarded funds must be completed and funds must be expended by March 31, 2010.

A bidder may not begin work pursuant to this RFP prior to the Energy Commission's approval and execution of the bidder's agreement. Project expenses incurred prior to the approval and execution of an agreement are not eligible for reimbursement under the agreement.

TRANSPARENCY AND REPORTING

The American Recovery and Reinvestment Act has made it clear that every taxpayer dollar spent on our economic recovery must be subject to unprecedented levels of transparency and accountability. The federal government has set the following accountability and transparency objectives:

- Funds are awarded and distributed in a prompt, fair, and reasonable manner;
- The recipients and uses of all funds are transparent to the public, and the public benefits of these funds are reported clearly, accurately, and in a timely manner;
- Funds are used for authorized purposes and instances of fraud, waste, error, and abuse are mitigated;
- Projects funded under this Act avoid unnecessary delays and cost overruns; and
- Program goals are achieved, including specific program outcomes and improved results on broader economic indicators.

Recipients of funding appropriated by the Act shall comply with requirements of applicable Federal, State, and local laws, regulations, DOE policy and guidance⁸, and

⁸ <http://www.recovery.gov/sites/default/files/m09-15.pdf>

VI. ARRA SPECIFIC IMPORTANT INFORMATION

instructions in Funding Opportunity Announcement (FOA) DE-FOA-0000052⁹. Recipients shall ensure that the requirements of applicable Federal, State and local laws, regulations, DOE policy and guidance, and instructions in FOA DE-FOA-0000052 are communicated to sub-recipients to the extent necessary to ensure the recipient's compliance with the requirements.

The federal government created the Recovery and Transparency Board to coordinate and conduct oversight of funds distributed under ARRA to prevent fraud, waste and abuse. California created the Office of the Inspector General to insure that stimulus dollars are spent wisely and well, including the deterrence, detection and disclosure of any fraud, waste and abuses.

DOE encourages a high degree of leveraging to extend the impact of the ARRA funds, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related guidance.

TRACKING AND REPORTING

Though recipients are encouraged to use SEP funding in conjunction with other funding, tracking and reporting of SEP funding must be separate to meet federal reporting requirements. The terms and conditions of the award will specify the format, tools and information required for reporting programmatic and energy metrics as specified by the federal government.

PROJECT EXTENSIONS

Projects funded pursuant to this RFP must be completed and funds must be expended by March 31, 2012, or such earlier date as specified in the agreement. If the Energy Commission determines that insufficient progress is being made toward implementing the project, and that there is significant risk that all funds will not be expended by the date specified in the agreement, the agreement will be terminated or amended and, if time allows, the funds will be reallocated as specified in "Reallocation of Funds."

PROJECT CHANGES

Changes to a project's work statement, including changes to specific line items in the project budget, may be approved by the ARRA Committee under the following conditions:

1. Such changes do not substantially alter the original scope or purpose of the project as proposed in the application and as approved by the ARRA Committee and/or full Energy Commission.
2. Such changes do not substantially reduce the value of the project. Unless otherwise indicated in the agreement, all changes are subject to necessary approval by the ARRA Committee. The recipient shall notify Energy

⁹ http://www.energy.ca.gov/recovery/documents/SEP_Recovery_Act_Guidance_DE-FOA-00000521.pdf

VI. ARRA SPECIFIC IMPORTANT INFORMATION

Commission staff in writing and obtain either ARRA Committee or full Energy Committee approval in advance of implementing any such changes.

REALLOCATION OF FUNDS

Funding may be reallocated as necessary to best achieve the overall goals of ARRA and to comply with state law and policy. Funds identified in an RFP may be reallocated and used for another ARRA purpose only after the RFP has closed and awards have been made, or the RFP has been cancelled. The Energy Commission may reallocate funds in an agreement if it determines that insufficient progress is being made towards implementing the project, and that there is a significant risk that all funds in the agreement will not be expended by the date specified. The Energy Commission may terminate or amend an agreement to accomplish this reallocation.

PROGRAM EVALUATION, PROJECT MONITORING, AND VERIFICATION

Proper stewardship surrounding the administration, reporting, accounting and transparency of ARRA funds is essential in the Energy Commission's administration of the ARRA SEP. Federal and state agencies, the Energy Commission, or their respective agents will audit a sample of funding recipients to verify compliance with the ARRA reporting requirements, the *Guidelines* and the solicitation document, and to measure and verify appropriate use and expenditure of ARRA funds, as well as validate electricity and fuel use reductions. In addition, the Energy Commission will monitor the progress of contract agreements and evaluate the effectiveness of particular projects.

ENFORCEMENT ACTION

1. Recovery of Overpayment

The ARRA Committee, with the concurrence of the Energy Commission, may direct the Energy Commission's Office of Chief Counsel to commence formal legal action against any recipient or former recipient to recover any portion of a contract agreement the Committee determines the recipient or former recipient was not otherwise entitled to receive.

2. Fraud and Misrepresentation

The Energy Commission or the ARRA Committee may initiate an investigation of any recipient which it has reason to believe may have misstated, falsified, or misrepresented information in applying for a funding contract agreement, invoicing for a contract agreement payment, or in reporting any information as required by these *Guidelines*. Based on the results of the investigation, the Energy Commission or ARRA Committee may take any action it deems appropriate, including, but not limited to, cancellation of the contract agreement, recovery of any overpayment, and recommending the initiation of an Attorney General Investigation and prosecution pursuant to Government Code sections 12650, et seq., or other provisions of law. The State of California, through the Attorney General's Office or other state agency, may independently investigate any recipient and bring actions for fraud, misrepresentation, or misuse of SEP funds as appropriate.

VI. ARRA SPECIFIC IMPORTANT INFORMATION

3. Federal Action

The Federal government, through various departments, including, but not limited to, DOE and the U.S. Department of Justice, may independently investigate any recipient and bring actions for fraud, misrepresentation, or misuse of SEP funds as appropriate.

USE AND DISCLOSURE OF INFORMATION AND REPORTS

The Energy Commission, other state agencies, the federal government, or their respective authorized agents may use any information or records submitted to the Energy Commission or obtained as part of any audit pursuant to these *Guidelines* to determine eligibility and compliance with these *Guidelines*, applicable law, or a particular contract agreement, to evaluate the pertinent program or program elements, and to prepare necessary reports as required by law. The information and records include, but are not limited to, applications for funding, invoices for award payments, and any documentation submitted in support of said applications or invoices.

Information and records submitted pursuant to the *Guidelines* will be disclosed to other governmental entities and policing authorities for civil and criminal investigation and enforcement purposes. This information and records may also be disclosed to the public pursuant to the California Public Records Act (Government Code Section 6250, et seq.). Personal information, such as taxpayer identification or social security numbers, will not be disclosed to the public.

Bidders should note that ARRA funds are subject to information disclosure requirements through the federal Office of Management and Budget as well as other federal agencies to ensure transparency. Information concerning the identity of recipients and the amount of payment of awards is public information, and will be disclosed as part of the ARRA transparency requirements and in accordance with the California Public Records Act. This information, along with other public information describing the funding recipients, may be disclosed to members of the public to educate them and encourage further program participation. The information may be disclosed through the Energy Commissions website, another state agency's website, a federal government website, or through other means.

If, as part of any audit, the Energy Commission requires a recipient to provide copies of records that the recipient believes contain proprietary information entitled to protection under the California Public Records Act or other law, the recipient may request that such records be designated confidential pursuant to the Energy Commission's regulations for confidential designation, Title 20, California Code of Regulations, Section 2505.

VI. ARRA SPECIFIC IMPORTANT INFORMATION

CRITICAL PROGRAM REVIEWS

The CCM will conduct a Critical Program Reviews (CPR) for each agreement. The first CPR will be scheduled to occur within the first six months of the agreement to determine the level of performance and the anticipated ability of the contractor to achieve the most benefit within the approximately two-year time available between contract awards and the ARRA SEP project implementation deadline.

PAYMENT OF PREVAILING WAGES

Section 1606 of ARRA broadly applies the Davis-Bacon Act labor standards requirements to ARRA-funded construction projects by specifying that:

Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code [Davis-Bacon Act].

Bidders in response to this solicitation should be advised that whenever proposed program funding is used for construction where the construction is completed by contractors/subcontractors who employ laborers and/or mechanics specified by the U.S. Department of Labor (DOL), those laborers and/or mechanics must be paid at prevailing wage rates. DOL (and the California Department of Industrial Relations (DIR)) maintains a list of the covered trades and the applicable prevailing wage for each trade.¹⁰

Bidders are encouraged to determine if the installation of energy efficiency measures under their proposed programs are subject to Davis-Bacon and/or the state law prevailing wage requirements as soon as possible. If the Bidder has determined that the work required under the Bidder's proposed program is not required to comply with the Davis-Bacon Act and/or state law prevailing wage laws, the Bidder must explain how the Bidder made that determination and whether or not the Bidder has contacted DOL and DIR to confirm that determination, and whether DOL and DIR have provided the bidder with written determinations.

¹⁰ <http://www.gpo.gov/davisbacon/allstates.html>.

VI. ARRA SPECIFIC IMPORTANT INFORMATION

If the Bidder has not received a determination from DOL and DIR that installation of energy improvement retrofits is not subject to the Davis-Bacon requirements and state law prevailing wage requirements, or cannot otherwise demonstrate to the Energy Commission that these requirements do not apply to the installation of retrofits under the Bidder's proposed program, the Bidder's budget must provide for the payment of prevailing wages. If the Bidder's proposed program identifies construction work to be completed by contractors or subcontractors employing laborers and/or mechanics subject to Davis-Bacon Act or state law prevailing wage requirements, the budget for the proposed program must provide for the payment of prevailing wages to those laborers and mechanics. Please indicate whether the proposed budget includes prevailing wage.

If the Bidder's proposed program identifies construction work to be completed by contractors or subcontractors employing laborers and/or mechanics subject to Davis-Bacon Act or state law prevailing wage requirements, the agreement between the Energy Commission and the Bidder will include provisions for complying with the prevailing wage requirements, including provisions for the payment of prevailing wage, keeping payroll records, and complying with working hour requirements and apprenticeship obligations.

Attachment 13 provides helpful information on the Davis-Bacon Act and the type of program work which may not be subject to the payment of prevailing wage under federal law. Attachment 14 provides helpful information on the state law prevailing wage requirements.

VII. Evaluation Process and Criteria

ABOUT THIS SECTION

This section explains how the proposals will be evaluated. It describes the evaluation stages, preference points, and scoring of all proposals. A Bidder's proposal will be evaluated and scored based on its response to the information requested in this RFP.

The entire evaluation process from receipt of proposals to the posting of the Notice of Proposed Award is confidential.

PROPOSAL EVALUATION

To review all proposals, the Energy Commission will organize an Evaluation Committee. The identity of the evaluators will be kept confidential during the selection process. The Energy Commission reserves the right to solicit technical input from other internal and external sources. This technical input will be utilized by the Evaluation Committee during the evaluation of the proposals. The proposals will be reviewed in two stages:

Stage One: Fulfillment of RFP Mandatory Format

After the period has closed for receipt of proposals, each proposal received prior to the time and date set for receipt of proposals is opened and examined to determine compliance with the RFP format requirements and grounds for rejection. If a proposal is not rejected for reasons stated in Grounds for Rejection, it may still be rejected if it does not meet the proposal format requirements or minimum administrative requirements.

Bidders who do not comply with the DVBE requirements will be rejected and proposals will not be evaluated in Stage Two.

Stage Two: Evaluation of Proposals

Proposals passing Stage One will be submitted to the Evaluation Committee to score proposals based on the Evaluation Criteria in this Section.

A bidder's proposal will be screened and scored based on its response to the information requested in this RFP. The Evaluation Committee, at its sole discretion, may interview a Bidder either by telephone or in person at the Energy Commission, and/or conduct a site visit at the Bidder's facilities for the purpose of clarification and verification of information provided in the Proposal. However, these interviews may not be used to change or add to the contents of the original proposal.

Proposals not attaining a score of 70 percent of the total possible points will be eliminated from further competition.

VI. Evaluation Process and Criteria, Continued

Ranking and Awards

Rankings for this RFP will be developed based on the Stage Two scores of all eligible proposals. Similar rankings will be established for the two other concurrent SEP solicitations, one for the Municipal Financing Program and the other for the Municipal and Commercial Building Targeted Measure Retrofit Program.

The ARRA Committee will determine how many proposals on each ranked list for each program area will be proposed for inclusion in the portfolio of SEP programs that will be recommended for funding under the Solicitations.

Notice of Proposed Award

Subsequent to the Proposal evaluations, the Energy Commission will post a "Notice of Proposed Award" at the Energy Commission's headquarters in Sacramento, and on the Energy Commission's Web Site.

Scoring Scale

The Evaluation Committee will give a score from zero (0) to ten (10) for each criterion described below. Each score will then be multiplied by a weighting factor to obtain the total points for that criterion. A total of 400 points are possible, 120 of which are cost points. The minimum passing score is 280 (70%). The point calculations reflect the averages of the combined scores of all Evaluation Committee members. Scores will be assigned in accordance with the following guidelines:

VI. Evaluation Process and Criteria, Continued

Point Scale

0 Points	<ul style="list-style-type: none">• Is not in substantial accord with the RFP requirements.• Has a potential significant effect on the amount paid or net cost to the State or the quality or quantity of product and/or service.• Provides an advantage to one competitor over the other competitors, for example, not paying minimum wages.
1-3 Points	<ul style="list-style-type: none">• The proposal states a requirement, but offers no explanation of how or what will be accomplished.• The response contains a technical deficiency which is an inaccurate statement or reference concerning the how, what, where, or when, which is part of an overall statement or description.
4-6 Points	<ul style="list-style-type: none">• Satisfies the minimum requirements and describes generally how and/or what will be accomplished.
7-9 Points	<ul style="list-style-type: none">• Satisfies the minimum requirements and specifically describes how and/or what will be accomplished in an <u>exemplary manner</u>, using sample products and illustrative materials (i.e., diagrams, charts, graphs, etc.).
10 Points	<ul style="list-style-type: none">• Exceeds the minimum requirements and specifically describes how and/or what will be accomplished both quantitatively and qualitatively, using sample products and illustrative materials (i.e., diagrams, charts, graphs, etc.).

Preference Points

A Bidder may qualify for non-technical preference points such as Small/Micro Small Business, Non-Small Business, and Disabled Veteran Business Enterprises (DVBE). Each qualifying Bidder passing the minimum technical evaluation will receive the applicable preference points.

Small / Microbusiness

Bidders who qualify as a State of California certified small/microbusiness will receive a cost preference of five percent (5%) of the lowest cost or price offered by the lowest responsible Bidder who is not a certified small/microbusiness, by deducting this five percent from the small/microbusiness Bidder's cost, for the purpose of comparing costs for all Bidders.

VI. Evaluation Process and Criteria, Continued

Non-Small Business

The preference to a non-small business bidder that commits to small business or microbusiness subcontractor participation of twenty-five percent (25%) of its net bid price shall be five percent (5%) of the lowest, responsive, responsible bidder's price. A non-small business which qualifies for this preference may not take an award away from a certified small business.

Target Area Contract Preference Request

The Target Area Contract Preference Act (Government Code Section 4530 et seq.) provides five percent (5%) preference points to California-based companies that perform state contract work in a distressed area. Bidders shall complete RFP Attachment 7 if they qualify for this preference. If you have further questions or need additional information on this matter, please contact TACPA/LAMBRA Preference Program Group at (916) 375-4609.

Enterprise Zone Request

The Enterprise Zone Act (Government Code Section 7070, et seq.) provides preference points as an incentive for business and job development in distressed and declining areas of the State. Bidders shall review RFP Attachment 8 to determine if they qualify for this incentive. If you have further questions or need additional information on this matter, please contact TACPA/LAMBRA Preference Program Group at (916) 375-4609.

Local Agency Military Base Recovery Act

The Local Agency Military Base Recovery Act (LAMBRA, Government Code Section 7118, et seq.) provides five percent (5%) preference points to California-based companies that perform State contract work in the LAMBRA. Bidders shall review RFP Attachment 9 to determine if they qualify for this preference. If you have further questions or need additional information on this matter, please contact TACPA/LAMBRA Preference Program Group at (916) 375-4609.

Disabled Veteran Business Enterprise

The DVBE Incentive program was established pursuant to Military & Veterans Code Section 999.5(2) and Department of General Services' Regulations 2 CCR 1896.98 et seq. The information below explains how the incentive is applied and how much of an incentive will be given.

Incentive Application:

Incentive points are included in the sum of non-cost Points (see "Incentive Amount" below). Incentive points cannot be used to achieve any applicable minimum point requirements. The DVBE incentive is only applied during the bid evaluation process and only to responsive/responsible bidders.

VI. Evaluation Process and Criteria, Continued

- The DVBE Incentive Program may be used in conjunction with the Small Business preference which gives a 5% preference to small business proposers or 5% to non-small business proposers committed to subcontracting 25% of the overall bid with small businesses.

Incentive Amount:

Award Based on High Score for RFP:

Proposed DVBE Participation Level	DVBE Incentive % Point Preference	DVBE Incentive Points
3% - 4.99%	1%	4
5%+	2%	8

Evaluation Criteria

The following criteria will be used for evaluating proposals submitted in response to this RFP. Details on proposal requirements for each of these evaluation criteria are included in Section III:

VI. Evaluation Process and Criteria, Continued

Stage 2 – Proposal Evaluation Criteria					
1.	Program Design (excluding Cost elements)	Weight (1-5)	x	Points (1-10)	Weighted Score
	a. Targeted Measures	2			
	b. Public and Private Partnerships	1			
	c. Collaboration with Existing Efficiency Programs	1			
	d. Economically Disadvantaged Areas	2			
	e. Sustainability	2			
	f. Quality Assurance	1			
	g. Verification of Energy Savings	2			
	h. Participant Recruitment and Program Communication	2			
	i. Team Organization Structure	1			
2.	Workforce Development and Job Creation	3			
3.	Energy, Peak Demand and GHG Emission Reductions	3			
4.	Time Criticality	1			
5.	Program Transparency and Reporting	1			
6.	Program Team Qualifications and Experience	2			
7.	Statement of Work	4			
Total Technical Score (70%)		28			280
8.	Cost Summary				
	a. Fund Leverage (Cost element of Program Design)	4			
	b. Program Cost –Effectiveness (Cost element of Program Design)	3			
	c. Program Budget	5			
Total Maximum Cost Score (30%)		12			120
Total Maximum Score (Technical & Cost)					400
Small Business Preference 5%					
Target Area Contract Performance Act Adjustment					
Enterprise Zone Act Adjustment					
Local Agency Military Base Recovery Act Adjustment					